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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/605,176

09/12/2003

Robert Stidd

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02/05/2007

JEFFREY FURR
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JOHNSTOWN, OH 43031

EXAMINER

LOWE, MICHAEL S

ART UNIT

PAPER NUMBER

3652

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/605,176	STIDD, ROBERT	
	Examiner	Art Unit	
	M. Scott Lowe	3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/11/06 has been entered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the multiple motorcycles must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant submitted changes to the specification on 12/11/06 stating that there was a clean copy also submitted. The examiner was unable to locate the clean copy.

Claim Objections

Claims 39-53 are objected to because the lines are crowded too closely together, making reading difficult. Substitute claims with lines one and one-half or double spaced on good quality paper are required with the proper font size. See 37 CFR 1.52(b).

Claims 42 and 50 are objected to because of the following informalities: "based to balanced" should be "base to balance" for proper grammar.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 39-45,47-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 39-45,47-53 are unclear since there are method steps in an apparatus claim. For example claims 39 & 47 state "plate is positioned to balance" and claims 40 & 48 state "where items are placed on the racks". For sake of examinations it is assumed applicant means only that the apparatus be capable of doing these limitations. The other apparatus claims are treated similarly:

Claims 39 & 47 state "said vehicle holder" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 39 & 47 state "a movable vehicle locator swivel plate" in line 3 and "a vehicle locator swivel plate". For sake of examination it is assumed these are the same items.

Claims 39 & 47 state "said device in lines 6 and 7 respectively. Since there are "a device" and "a recreation device" in line 1 it is unclear what is being claimed. For sake of examination it is assumed applicant meant the first "device" of line 1.

Claims 41 & 49 recite the limitation "the spacing between said racks is equal to the axle of a golf cart" in lines 1-2. This does not make sense. For sake of examination it is assumed applicant meant "the spacing between said racks is such that a golf cart could be supported on the racks."

Claims 43 & 51 recite the limitation "said a single rack is" in line 1. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant "said racks are".

Claims 45 & 53 recite the limitation "the short ends" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 39-45,47-53 are rejected under 35 U.S.C. 101 because the claim overlaps two different statutory classes of invention.

Claim Rejections - 35 USC § 102/103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-53 are rejected 35 U.S.C. 103(a) as obvious over Alvis (US 5,468,115) in view of Colet (US 4,578,014).

Re claims 39,46,47, Alvis teaches a apparatus and its intended method of use with a towing device 10 capable of towing a vehicle and recreation device comprising: a

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base (11,12,17,etc.) comprising a support beam and a wheel axis support (the various non-numbered supports of tires 12A, the various brackets and supports such as 12,24,17,38, etc. can all read on the broad limitation), a plurality of wheels 12A connected to said base, a plurality of racks 13,14,38 connected to said base, a tongue hitch attachment (not numbered) at one end of the base, and a vehicle holder/movable vehicle locator swivel plate (11,12,etc.) at the other end of said base; said racks 13,14,38 movable on said base and attached to said base using an attachment means.

Alvis teaches a ramp (column 3, lines 49-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alvis to have more than one ramp in order save effort move a single ramp back and forth.

Alvis teaches securing the vehicles and the supports (items 25,28,etc., column 3, lines 55 & 60) appropriately and inherently the operator would balance the load for safety. However, if it is determined that Alvis does not teach repositioning the vehicle holder for load balancing, then it is noted that Colet teaches repositioning the vehicle holder for load balancing (column 9) and safety. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Alvis by Colet to have repositioning the vehicle holder for load balancing and safety.

Re claims 40,48, Alvis is capable of having items placed on the racks.

Re claims 41,49, Alvis teaches (columns 1,3) the spacing between said racks is such that a golf cart could be supported on the racks.

Re claims 42,50, Alvis and the modified Alvis teach the spacing of the racks spaced evenly such that it capable of having motorcycles loaded/balanced on the racks.

Re claims 43,51, Alvis and the modified Alvis teach said racks capable of being centered with a motorcycle load on the base.

Re claims 44,52, Alvis teaches said racks 13,14,38 have two elongated lips (not numbered) and two ends (not numbered) which are open.

Re claims 45,53, Alvis teaches said racks 13,14,38 have two elongated lips (not numbered) and a wheel block (column 3, lines 55 & 60 state the vehicles are tied down and thus the wheels are "blocked" from movement) at one of the short ends with an open end opposite said wheel block.

Conclusion

Applicant's arguments filed 12/11/06 have been fully considered but they are not persuasive. The claims are not in proper form nor patentable over the known prior art.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the locator plate not being the same as applicants) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant asked that the examiner have an interview if the examiner needed to discuss any potential questions with applicant. The examiner however did not have any questions for the applicant. The applicant may request an interview prior to the sending next amendment if the applicant feels the need to do so.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-W; Th work offsite.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571)272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl



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